



31 MAY 2006

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In re Application of	:	
FUKUI et al.	:	
Application No.: 10/547,531	:	DECISION ON REQUEST
PCT No.: PCT/US03/06601	:	
Int. Filing Date: 04 March 2003	:	
Priority Date: None	:	
Attorney Docket No.: 75772-010500/US	:	
For: HIGH ELECTRIC FIELD	:	
ELECTROLYSIS CELL	:	

This decision is issued in response to the "Petition to Correct Inventorship" filed 27 February 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 50-2638 will be charged the required processing fee.

### **BACKGROUND**

On 04 March 2003, applicants filed international application PCT/US03/06601 which claimed no priority date. The published international application identified three applicant/inventors for the United States: Kenji Fukai; Kazunari Naya; and Tim M. Itamura. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 04 September 2005.

On 31 August 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 27 February 2006, applicants filed the present request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor.

### **DISCUSSION**

The present submission seeks to correct the inventorship so as to remove inventor Tim M. Itamura from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

(4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the removal of Tim M. Itamura from the application, applicants' 27 February 2006 submission satisfies requirements (1) and (2).

However, item (3) has not been satisfied. Specifically, applicants have not submitted a statement of consent from the purported assignee, FRS Waterware (dba Waterwave, Inc.). Further, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manual of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b). Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded location in the United States Patent and Trademark Office (e.g., reel and frame number).

As to item (4), an oath or declaration by the actual inventors as required by 37 CFR 1.497(a) has not been submitted.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Tim M. Itamura cannot be removed from the application on the present record.

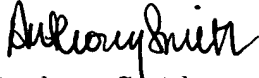
### **CONCLUSION**

Applicants' request to remove inventor Tim M. Itamura under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with

37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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